

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ALVIN D. FRAZIER,

Plaintiff,

v.

JEFFREY WOODS, et al.,

Defendants.

Case No. 2:17-cv-89

HON. JANET T. NEFF

OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. Defendants Butler, Dunton, Isard, McGeshik, McLeod and Marlette filed a motion for summary judgment on Plaintiff's Eighth Amendment failure-to-protect claims. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending this Court grant Defendants' motion and dismiss this case. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff makes twelve objections to the Magistrate Judge's Report and Recommendation. Contrary to the requirements of this Court's local rule, Plaintiff's objections 1 through 5, 7, 8, 10, and 12 do not identify any portion of the Report and Recommendation to which an objection is made (ECF No. 109 at PageID.745-752). *See* W.D. Mich. LCivR 72.3(b) (requiring an objecting party to "specifically identify the portions of the proposed findings, recommendations or report to

which objections are made and the basis for such objections”). Plaintiff’s objections merely state his disagreements with Defendants’ motion, previous denials for discovery, and the process in general. Plaintiff has not demonstrated any factual or legal error in the Magistrate Judge’s analysis; therefore, these objections are denied.

In his objection 6, Plaintiff disagrees with the Magistrate Judge’s conclusion that no genuine issue of material fact exists in this case (ECF No. 109 at PageID.747-748). However, Plaintiff does not dispute the lack of evidence in the record but blames the “defects in this case” on the denial of his previous discovery motions (*id.* at PageID.747). Plaintiff’s objection fails to demonstrate any factual or legal error in the Magistrate Judge’s analysis or conclusion. This objection is therefore denied.

In his objection 9, Plaintiff generally objects to “all dismissals” (*id.* at PageID.749). A general objection is the same as a failure to file an objection. *See Miller v. Curie*, 50 F.3d 373, 380 (6th Cir.1995); *Howard v. Sec’y of Health & Human Servs.*, 932 F.2d 505, 509 (6th Cir. 1991). This objection is therefore denied.

In his objection 11, Plaintiff argues that the Magistrate Judge erred in concluding that Plaintiff’s claims “are barred under the three year statute of limitation period” (ECF No. 109 at PageID.750-751). Plaintiff agrees that he filed his claims outside of the three-year window, but he contends that the statute does not apply due to his “documented learning disability” and need to obtain a legal writer (*id.* at PageID.751). Plaintiff’s objection fails to demonstrate any factual or legal error in the Magistrate Judge’s analysis or conclusion. This objection is therefore denied.

Accordingly, this Court adopts the Magistrate Judge’s Report and Recommendation as the Opinion of this Court. Further, as this Opinion and Order resolves the last pending claims, a

Judgment will also be entered.¹ *See* FED. R. CIV. P. 58. The Court declines to certify, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this decision would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007). Therefore:

IT IS HEREBY ORDERED that the Objections (ECF No. 109) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 108) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion for Summary Judgment (ECF No. 78) is GRANTED.

Dated: March 25, 2020

/s/ Janet T. Neff

JANET T. NEFF
United States District Judge

¹ Plaintiff named “Inspector Hubbard (or Hough)” as a Defendant in his Second Amended Complaint filed on May 8, 2018 (ECF No. 52), nearly two years ago. The docket thereafter contains no inquiry or mention about Hubbard (or Hough) and whether he was served. Although the Magistrate Judge recommends dismissal of his case, Plaintiff also does not reference Defendant Hubbard (or Hough) in his Objections. Under these circumstances, the Court determines that Defendant Hubbard (or Hough) is properly dismissed without prejudice.